

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

PATRICIA RUSER,)	CIVIL ACTION NO. 8:18-cv-403
)	
Plaintiff,)	
)	DEFENDANT’S NOTICE OF AND
)	PETITION FOR REMOVAL
v.)	
)	
)	(From the District Court of Douglas
LIGGETT VECTOR BRANDS LLC,)	County, Nebraska, Case No. CI 18-2131)
)	
Defendant.)	

DEFENDANT LIGGETT VECTOR BRANDS LLC’S
NOTICE OF AND PETITION FOR REMOVAL

Defendant Liggett Vector Brands LLC, (“Defendant” or “LVB”), by and through its undersigned counsel, pursuant to 28 U.S.C. §§ 1331, 1367, and 1441, and in accordance with the Federal Rules of Civil Procedure and Nebraska Civil Rules, hereby files this Notice of and Petition for Removal of a case from the District Court of Douglas County, Nebraska, bearing Case No.CI 18-2131. As grounds for this removal, Defendant states the following:

BACKGROUND

1. On March 14, 2018, Plaintiff filed her first Complaint and Jury Demand (“Original Complaint”) against LVB in the District Court of Douglas County, Nebraska, Case No. CI 18-2131. A copy of the Original Complaint is attached with Exhibit A to this Notice. The Original Complaint was never served.
2. On July 16, 2018, Plaintiff filed her Amended Complaint and Jury Demand (“First Amended Complaint”) against LVB in the District Court of Douglas County, Nebraska,

Case No. CI 18-2131. A copy of the First Amended Complaint is attached with Exhibit A to this Notice. Plaintiff's First Amended Complaint was never served.

3. On July 18, 2018, Plaintiff filed her Second Amended Complaint and Jury Demand ("Second Amended Complaint") against LVB in the District Court of Douglas County, Nebraska, Case No. CI 18-2131. A copy of the Second Amended Complaint is attached with Exhibit A to this Notice.

TIMELY REMOVAL

4. On August 20, 2018, LVB received service of the Second Amended Complaint by certified mail. A copy of the return summons, which incorrectly purports that Defendant accepted service on August 17, 2018, is attached with Exhibit A to this notice. The time period under 28 U.S.C. § 1446(b) for LVB to file this Notice of Removal has not expired.

BASES FOR REMOVAL

5. Plaintiff has asserted claims against LVB of age discrimination in violation of the Age Discrimination in Employment Act ("ADEA"), disability discrimination and retaliation in violation of the Americans with Disabilities Act, 42 U.S.C. § 12112, *et seq.* ("ADA"), Workers' Compensation retaliation under Nebraska state law; and discrimination and retaliation in violation of the Family and Medical Leave Act, 29 U.S.C. § 2601, *et seq.* ("FMLA").
6. This Court has original jurisdiction over Plaintiff's ADEA, ADA, and FMLA claims pursuant to 28 U.S.C. § 1441.
7. Plaintiff's Nebraska state law claim of Workers' Compensation retaliation is so related to Plaintiff's ADEA, ADA, and FMLA claims that they form part of the same case or controversy.

8. In particular, in her Complaint, Plaintiff relies on the same set of factual allegations to form her ADEA, ADA, FMLA and state law claim. *See* Exhibit A, pp. 33-38.
9. Pursuant to 28 U.S.C. § 1367(a), this Court has supplemental jurisdiction over Plaintiff's Nebraska state law Workers' Compensation retaliation claim.

VENUE

10. Venue is proper in this Court. The United States District Court for the District of Nebraska is the Division which encompasses Douglas County, the district in which the state court case was filed. Thus, the United States District Court for the District of Nebraska is the proper district court to which this case should be removed. *See* 28 U.S.C. §§ 1441(a) and 1446(a).

NOTICE OF COMPLIANCE WITH PROCEDURAL REQUIREMENTS

11. An accurate copy of all process, pleadings, orders, and other papers or exhibits currently on file with the state court are attached to this notice of and petition for removal as Exhibit A as required by 28 U.S.C. § 1446(a).
12. Promptly after the filing of this Notice, LVB will serve written notice of this removal on Plaintiff through her counsel and will file a copy of this Notice of Removal with the District Court of Douglas County, Nebraska.

REQUEST FOR PLACE OF TRIAL

Defendant respectfully requests that trial of this action be held in Omaha, Nebraska.

WHEREFORE, Defendant Liggett Vector Brands LLC respectfully requests that this case be properly removed, that the Court accept jurisdiction over the action, and that this action be entered into the docket of this Court for further proceedings as if the action had originally been instituted in this Court.

Dated: August 23, 2018.

Respectfully submitted,

/s/ Christopher E. Hoyme

Christopher E. Hoyme, #18993

Brock J. Pohlmeier, NE #25817

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ATTORNEYS FOR LIGGETT VECTOR
BRANDS, L.L.C.

CERTIFICATE OF SERVICE

I hereby certify that on August 23, 2018, I electronically filed the forgoing with the Clerk of the Court using the CM/ECF System which sent notification of such filing to the following:

Kelly K. Brandon
Stephanie J. Costello
Fiedler & Timmer, P.L.L.C.
20615 Highway 370
Gretna, NE 68028

/s/ Christopher E. Hoyme